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01/20

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO				CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY) pending FM approval and 292		
TO: CITY COUNCIL		FROM (ORIGINATING DEPARTMENT): Risk Management		DATE: 11/21/2008		
SUBJECT: Settlement of the Property Damage claim of John Trunkey and Greg Bishop, Risk Management file No. LP07-0705-1147.						
PRIMARY CONTACT (NAME, PHONE): James Coldren, 619-236-5598				SECONDARY CONTACT (NAME, PHONE): Ray Palmucci, 619-236-7725		
COMPLETE FOR ACCOUNTING PURPOSES						
FUND	41500					
DEPT.	760					
ORGANIZATION	503					
OBJECT ACCOUNT	4824					
JOB ORDER	050301					
C.I.P. NUMBER						
AMOUNT	\$835,000.00	0.00	0.00	0.00	0.00	0.00
FUND						
DEPT.						
ORGANIZATION						
OBJECT ACCOUNT						
JOB ORDER						
C.I.P. NUMBER						
AMOUNT	0.00	0.00	0.00	0.00	0.00	0.00
COST SUMMARY (IF APPLICABLE): \$ 162,475.83 Previously Paid \$ 835,000.00 Outstanding \$ 997,475.83 Total Settlement						
ROUTING AND APPROVALS						
CONTRIBUTORS/REVIEWERS:		APPROVING AUTHORITY		APPROVAL SIGNATURE		DATE SIGNED
Liaison Office		ORIG DEPT.		Bych, Greg		11/21/2008
Water Department		CFO		Lewis, Mary		1/5/2009
Financial Management		DEPUTY CHIEF		Lewis, Mary		1/5/2009
Comptroller		COO				
		CITY ATTORNEY		Palmucci, Ray		12/1/2008
		COUNCIL PRESIDENTS OFFICE		Halsey, Keely		1/7/2009
PREPARATION OF:		<input checked="" type="checkbox"/> RESOLUTIONS		<input type="checkbox"/> ORDINANCE(S)		<input type="checkbox"/> AGREEMENT(S) <input type="checkbox"/> DEED(S)
1. Authorizing the Mayor to pay the sum of \$ 835,000.00 in settlement of each and every claim against the City, its agents and employees, arising from the Property Damage claim of John Trunkey and Greg Bishop as a result of a water main break.						
2. Authorizing the City Auditor and Comptroller to issue one check in the amount of \$550,000.00 in the current fiscal year and one check in the amount of \$285,000.00 in fiscal year 2010 payable to John Trunkey and						

000096

Greg Bishop and their attorney Bryan M. Garrie.	
3. Authorizing the expenditure of \$835,000.00 from the Water Department fund 41500.	
STAFF RECOMMENDATIONS: Approve the resolution.	
SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)	
COUNCIL DISTRICT(S):	District 1
COMMUNITY AREA(S):	La Jolla
ENVIRONMENTAL IMPACT:	This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section §15060(c)(3).
CITY CLERK INSTRUCTIONS:	Please send executed copies to James Coldren, MS 51B and Ray Palmucci, MS 59.

000097

**COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO**

DATE: 11/21/2008

ORIGINATING DEPARTMENT: Risk Management

SUBJECT: Settlement of the Property Damage claim of John Trunkey and Greg Bishop, Risk Management file No. LP07-0705-1147.

COUNCIL DISTRICT(S): District 1

CONTACT/PHONE NUMBER: James Coldren/619-236-5598

REQUESTED ACTION:

Authorizing the Mayor to pay the sum of \$835,000.00 in settlement of each and every claim against the City, its agents and employees, arising from the Property Damage Claim of John Trunkey and Greg Bishop, as a result of flooding to their hill side home in La Jolla due to a break on a Cast Iron water main.

STAFF RECOMMENDATION:

Approve the resolution.

EXECUTIVE SUMMARY OF ITEM BACKGROUND: The proposed settlement would resolve all claims brought by John Trunkey and Greg Bishop for flood damage to their house, including allegations of structural instability, expenses for temporary substitute residence during repairs and contents damage.

FISCAL CONSIDERATIONS: Settlement will be paid from the Water Utility fund.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: On November 18, 2008 the City Council voted in Closed Session on Item CS-4, John Trunkey, et al. v. City of San Diego, Claim No. LP07 0705 1147, to approve a settlement agreement. The agreement requires the City to pay \$835,000 to resolve the claim for a total settlement of \$977,475.83. The motion was made by Council President Peters and seconded by Councilmember Atkins. The motion passed unanimously 8-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Bych, Greg

Originating Department

Lewis, Mary

Deputy Chief/Chief Operating Officer

000101

RESOLUTION NUMBER R- _____

DATE OF FINAL PASSAGE _____

A RESOLUTION AUTHORIZING PAYMENT
FOR THE SETTLEMENT OF ALL CLAIMS OF
JOHN TRUNKEY AND GREG BISHOP

WHEREAS, in Closed Session on November 18, 2008, the City Council, by the following vote: unanimously 8-0, authorized the payment in full and final settlement of each and every claim, along with all resulting claims and damages referenced in Claim No. LP07-0705-1147, in the amount of \$835,000.00; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor or his designee is hereby authorized and empowered to pay the total sum of \$835,000.00 in full and final settlement of each and every claim against the City of San Diego, its agents and employees, resulting from Claim No. LP07-0705-1147 by John Trunkey and Greg Bishop, for property damage along with related damages and expenses which occurred on or about December 17, 2006 and thereafter.

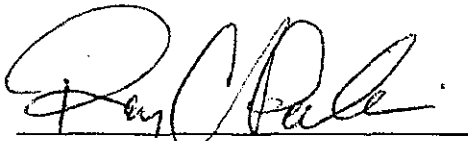
BE IT FURTHER RESOLVED, that the City Auditor and Comptroller is hereby authorized to issue one check in the amount of \$550,000.00 in the current fiscal year following City Council and Mayoral approval of this action, and one check in the amount of \$285,000.00 in fiscal year 2010 by August 31, 2009, both made payable to BRYAN M. GARRIE, APC CLIENT TRUST ACCOUNT FBO JOHN TRUNKEY AND GREG BISHOP, in settlement of said claims, with said funds to be payable from the Water Utility Fund 41500.

000102

BE IT FURTHER RESOLVED, that this activity is not a project and is therefore exempt from the California Environmental Quality Act pursuant to Guidelines Section 15060(c) (3).

APPROVED: JAN I. GOLDSMITH, City Attorney

By


Raymond C. Palmucci
Deputy City Attorney

RCP:js
01/06/2009
Or.Dept: Risk Mgmt
R-2009-703

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor